

February 16, 1996

P.S. Protest No. 95-52

CENTRAL CONTROL ALARM CORP.

Solicitation No. 266351-95-A-0737

DIGEST

Protest challenging successful offeror's eligibility under solicitation's definitive criteria of responsibility is denied. Documentation before the contracting officer provided adequate basis for determination that offeror met solicitation requirements.

DECISION

Central Control Alarm Corp. protests the award of a contract under solicitation number 266351-95-A-0737 to Alpha Omega Security.

Solicitation -0737 was issued by the Purchasing and Materials Service Center, Minneapolis, MN, for closed circuit television (CCTV) security systems to be installed at 23 locations in the Milwaukee, WI, area.

Section B.2 of the statement of work included the following:

B.2 OFFEROR QUALIFICATIONS

Offeror must meet the following requirements to be considered for award:

- a. The successful contractor's primary source of revenue shall be derived from the design and installation or sale of closed circuit television and security systems.
- b. Successful contractor shall have 5 or more years in the design and installation of CCTV equipment.

c. Project manager must have 5 years experience of [sic] design and installation of closed circuit television equipment.

d. Contractor must have a minimum of 2 technicians, with at least 2 year[s] experience installing CCTV systems, that will be doing the installation for the USPS.

* * *

g. Contractor must have repair facility within 50 miles of Milwaukee WI and be able to respond to service needs within 4 hours of notification.

Offers on the solicitation were received August 15, 1995. Award was made to Alpha Omega Security on September 15, and the unsuccessful offerors, including Central Control, were notified of the award on that date.

By a letter to the contracting officer dated October 4, Central Control questioned whether Alpha Omega met the requirements of the solicitation.¹ The contracting officer replied by letter dated October 10 that the contractor "was determined to meet all the requirements of the solicitation." Central Control replied to the contracting officer by letter of October 13, objecting to the October 10 letter's lack of specificity, and "officially protesting the award of bid and requesting that the United States Postal Service do a full audit on Alpha Omega Security Inc. to prove that they fully meet vendor qualifications set out for this bid."

Following a telephone conversation with a Purchasing Specialist at the Service Center, Central Control augmented its protest by listing the areas in which it contended Alpha Omega failed to meet the cited requirements of section B.2, making the following contentions:

- Alpha Omega is primarily a private investigation agency, whose primary source of revenue does not come from the design, installation, or sale of CCTV security systems.
- Alpha Omega lacks five year's experience in such installations.
- Alpha Omega subcontracts for installation services. It does not have on its staff either a project manager or technicians with the experience required.

The contracting officer prepared a letter denying the protest as obviously without merit and

¹ Specifically, the letter stated, in pertinent part:

[U]pon review of your offer qualifications section B paragraph 2, my company questions if Alpha Omega Security Incorporated does meet these qualifications under sub paragraph[s] A, B, C, and D.

I hope you will take some[]time to review these qualifications before intended award is given.

a "contracting officer's statement," both dated November 2, which responded to the specifics of Central Control's protest. The statement noted that Alpha Omega, which has been in business since 1976, had provided satisfactory documentation concerning the extent of its previous experience and that its accounting firm had demonstrated that its CCTV revenues exceeded its other revenues. Similarly, the statement noted that Alpha Omega had established the experience required for its proposed project manager and technicians. The statement asserts that the solicitation did not require the technicians to be on the contractor's staff, and that subcontractors were allowed.

Central Control wrote this office on November 15, contending that the contracting officer's letters were unsatisfactory and that "nothing has been proven." The protest sought an independent review of the contracting officer's determination. The letter noted, with respect to the contracting officer's assertion that subcontracted technicians were acceptable, that in such a situation the requirements of section B. g. could not be met.

Responding to the protest to this office, the contracting officer has restated the points made in the contracting officer's statement of November 2. With respect to the newly raised challenge concerning provision B. g., the contracting officer states that the contractor "provided . . . the address of a repair facility located in the Milwaukee area. . . . The solicitation does not state that a subcontractor can not be used to do these repairs. . . . Subcontractors can be used as the contract references subcontractors and does not specifically exclude their use."

The protester submitted comments on the contracting officer's statement which reiterated points made in its previous submissions, and furnished an article dated September 16, 1995, from "The Business Journal," a Milwaukee newspaper, which profiles Alpha Omega's president to support the proposition that the firm is primarily a private detection agency, not an electronic security contractor.

Alpha Omega submitted comments asserting that it was in full compliance with the terms of the solicitation.

DISCUSSION

The protester's contention that Alpha Omega fails to meet the requirements of section B.2 of the solicitation is a challenge to the contracting officer's determination that the contractor met the solicitation's definitive criteria of responsibility.

If a protest[e]r alleges misapplication of definitive responsibility criteria, our review involves determining whether the contracting officer had before h[er] information from which [s]he reasonably could have determined the criteria were or were not met.

Flamenco Airways, Inc., P.S. Protest Nos. 91-21, May 21, 1991, citing *TLT Construction Corp., Inc.*, P.S. Protest No. 89-75, January 18, 1990.

Various items of documentation included in the contracting officer's report support the conclusion that the contractor meets the requirements of paragraph B.2 which the protester

questions. Those requirements, and the documentation provided, are as follows:

Requirement: "The successful contractor's primary source of revenue shall be . . . from the design and installation or sale of closed circuit television and security systems."

Documentation: Alpha Omega's accountant's statement comparing CCTV revenues to total revenues; CCTV revenues were approximately 55% of those revenues.

Requirement: "Successful contractor shall have 5 or more years in the design and installation of CCTV equipment."

Documentation: Alpha Omega's statement that in 1988-89 it installed a CCTV system for the City of Milwaukee Crosstown Joint Venture Deep Tunnel Project.

Requirement: "Project manager must have 5 years experience of design and installation of closed circuit television equipment."

Documentation: Summary of Project Manager's previous experience with CCTV design/installation since 1989.

Requirement: "Contractor must have a minimum of 2 technicians, with at least 2 year[s] experience installing CCTV systems, that will be doing the installation for the USPS."

Documentation: Summaries of installation experience of two employees of Loss Prevention Systems, Inc.

Requirement: "Contractor must have repair facility within 50 miles of Milwaukee WI and be able to respond to service needs within 4 hours of notification."

Documentation: Identification of Milwaukee address for the repair facility of Loss Prevention Systems, Inc.

The cited documentation is sufficient to support the contracting officer's conclusions that Alpha Omega and its offered subcontractor met the definitive criteria of responsibility set out in the solicitation. Contrary to the protester's contentions, the experience of the offered subcontractor and its employees may be attributed to the offeror unless the solicitation explicitly prohibits it. See, e.g. *Gelco Services, Inc.*, Comp. Gen. Dec. B-253376, September 14, 1993, 93-2 CPD 163. As the contracting officer has noted, the solicitation here contained no such prohibition.

The article offered by the protester does not contradict this documentation. While it focusses on the investigatory side of the contractor's operations, it acknowledges the firm's expansion into electronic security systems and states "[c]losed circuit TV's . . . are [one of Alpha Omega's President's] specialties."

The protest is denied.

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Contract Protests and Policies